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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,936	09/21/2005	Dieter Fritz	1716141	3153
24240	7590	10/19/2007	EXAMINER	
CHAPMAN AND CUTLER 111 WEST MONROE STREET CHICAGO, IL 60603				LE, MARK T
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
10/19/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/518,936	FRITZ ET AL.	
	<b>Examiner</b>	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.  
2a)  This action is **FINAL**.                    2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2-3, the expression "one of each track is each configured as a tongue rail as movable into abutment on a respective stock rail" is not clear. Note that there is only one tongue rail 2 rather than one tongue rail for each one of the main and branch tracks.

In claim 1, line 4, the expression "... is designed to ..." is indefinite because the instant claimed invention is a switch rather than the design of the switch.

In claim 1, it is not clear as to whether "stock rail (1)" recited in line 4 is the same as the stock rail recited in line 3. If it is the same, it should be referred to as "the stock rail" or "said stock rail" so as to avoid double inclusion of the same element.

In claim 1, line 8, "thereupon" is not clear as to which structure is being referred to.

In claim 1, line 9, the expression "... is designed to be ..." is indefinite because the instant claimed invention is a switch rather than the design of the switch.

In claim 1, the expression "... reinforced in cross section towards the stock rail (1) according to the reduction in the width of the stock rail head" is indefinite because it is not clear as to what limitation is covered by the word "according".

It is further noted that the expression " ... is designed to be ..." is used throughout the instant claims, and as indicated above, said expression is indefinite because the instant claimed invention is a switch rather than the design of the switch.

The above noted problems are merely exemplary. Such problems appear to be resulted from the translation of a foreign document; wherein, the instant claimed limitations are vague and confusing. Applicant is suggested to rewrite the instant claims in accordance with the U.S. practice.

2. Claims 1-20, as best understood, appear to define a patentable combination of features; therefore, these claims would be favorable considered if rewritten or amended to overcome the rejection under 35 U.S.C. 112, 2nd paragraph to clearly define the patentable combination of features.

3. The prior art made of record and not relied upon that is considered pertinent to Applicant's disclosure includes Ziethen '135, Thornton '490, Strong '216, Fernekes '022, Lesemann '634, Benenowski '196, '833, Taylor '710, and Pale '251.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Tuan Le  
Primary Examiner  
Art Unit 3617

mle  
10/16/07